UNITED STATES DISTRICT COURT MIDDLE DISTRICT OF TENNESSEE NASHVILLE DIVISION

KEVIN SCOTT DENNIS]	
Plaintiff,]	
]	
v.]	No. 3:09-0160
]	JUDGE HAYNES
T.J. ELECTRIC, et al.]	
Defendants.]	

MEMORANDUM

Plaintiff, proceeding pro se, is an inmate at the Northwest Correctional Complex in Tiptonville, Tennessee. He brings this action pursuant to 42 U.S.C. § 1983 against T.J. Electric Co., a business in Nashville, and Jason Zimmer, an employee of T.J. Electric, seeking damages.

From November, 2005 to June, 2006, the Plaintiff operated a jackhammer for the T.J. Electric Co. The Plaintiff claims that, as a result of his employment with this defendant, he has suffered permanent hearing loss.

To establish a claim under 42 U.S.C. § 1983, the Plaintiff must plead and prove that the defendants, while acting under color of state law, deprived him of some right secured by the Constitution or laws of the United States. <u>Parratt v. Taylor</u>, 451 U.S. 527, 535 (1981).

Plaintiff has neither pled nor suggested that the defendants were acting under color of state law when he suffered his alleged

loss of hearing. Nor has the Plaintiff alleged the deprivation of a constitutional right arising from the defendants' misconduct. Thus, the Plaintiff has failed to state a viable claim for § 1983 relief.

In any event, civil rights claims brought in Tennessee are subject to a one year statute of limitation. Merriweather v. City of Memphis, 107 F.3d 396, 398 (6th Cir.1997). The Plaintiff's cause of action arose when he realized that he had suffered a loss of hearing which, at the latest, would have been shortly after he left the employ of T.J. Electric in June, 2006. This action, therefore, was filed well beyond the expiration of the limitation period.

Plaintiff has failed to state a claim upon which relief can be granted. Under such circumstances, the Court is obliged to dismiss the complaint sua sponte. 28 U.S.C. § 1915(e)(2).

An appropriate order will be entered.

WILLIAM J. HAYNES JR.

United States District Judge

4-8-09